

MINUTES

HOUSE ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

DATE: Wednesday, January 18, 2017

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Raybould, Vice Chairman Thompson, Representatives Hartgen, Vander Woude, Anderson, Anderst, Mendive (Mendive), Trujillo, Chaney, Nate, Cheatham, Horman, Malek, Moon, Smith (Lacey), Jordan, Rubel

**ABSENT/
EXCUSED:** None

GUESTS: Matthew Chandler; Barry Burnell, Department of Environmental Quality (DEQ); Matt Alvarado, DEQ; Michael McCurdy, DEQ; Brian Crawford, Southwest District Health; Dale Atkinson, Atkinson-Jet; Paula Wilson, DEQ; Representative Heather Scott, 5th District of Idaho; Britt Reichel, Veritas; Jay Shaw, Administrative Rules

Chairman Raybould called the meeting to order at 1:30 p.m.

MOTION: **Rep. Thompson** made a motion to approve the minutes of January 12, 2017.
Motion carried by voice vote.

**DOCKET NO.
58-0103-1501:** **Chairman Raybould** returned **Docket No. 58-0103-1501** to the committee for review, which was held for a time certain from the meeting of Thursday, January, 12, 2017.

Barry Burnell, Water Quality Division Administrator, DEQ, explained that the current system of operation, maintenance and monitoring involves property owners signing an agreement and easement with an O&M, which is a non-profit corporation made up of manufacturers that send out service providers to provide maintenance and monitoring of the complex alternative septic systems. With the easement, the O&M has "anytime" access to a property owner's property to conduct maintenance. The new rule removes the O&M, and the property owner directly contacts a service provider, who has been certified and trained under the new rule, and the service provider comes upon the owner's property at his express invitation only for repair. The new rule cuts out the middle man, O&M, and gives property owners a choice of service technicians.

Mr. Burnell, in response to committee questions, confirmed that service provider training would be in place during the transition period prior to the rule effective date of July 1, 2017, and that there would be no additional costs to property owners and service providers. He also informed committee members that liability for system failure shifts from the O&M to the homeowner unless it is caused by service maintenance, in which case service providers are required to be bonded.

Matthew Chandler testified in support of **Docket No. 58-0103-1501** from his personal knowledge as an owner of a complex alternative septic system. With the easement that ownership of the system requires he enter into, the system service providers can come onto his property anytime without informing him they are or have been there, so he has no way of knowing if service is being performed on his system. Recently, Mr. Chandler came home and noticed a truck from Waste Water Systems on his property, service tools on the front steps, his front door open, and the service man in his master bedroom. The service man stated he had a drug problem and was looking for narcotics. Mr. Chandler called the authorities, and the service man is currently in the custody of the Idaho Department of Correction. Mr. Chandler looked up the service man's criminal history on the internet and found

that he had many felonies, including armed robbery and breaking and entering. In conversations with the O&M, he discovered that they never checked the service man's background, and that the O&M board consists of 3 members, all of whom are employees of the alternative septic system manufacturers. He asked for another entity to monitor his septic system, but has not been given one. Under the current rule, he has no options for selecting another service provider. There is one service provider for over 2,000 systems in Idaho, and they have a monopoly.

Brian Crawford, Southwest District Health, testified in support of **Docket No. 58-0103-1501** stating he has worked for Southwest District Health for 15 years, and during that time the most complaints received have been on the issue of property owners unhappy with complex alternative septic system service providers and wanting to select their own service provider. He stated the current rule has not worked the whole 15 years he has worked for the state, and he has concluded it cannot be made to work.

Dale Atkinson, testified, in opposition to **Docket No. 58-0103-1501**, that he is a service provider, and without an easement, he can't provide service. Mr. Atkinson discussed the percentage of people required to maintain the system, saying that Biomicrobics only has 1 or 2 people servicing 2,000 people while he services 200 systems. He stated that most system manufacturers recommend testing twice a year but the rule only requires one time a year. It needs to apply to everybody if it is going to have service providers servicing different systems. He opined that he has grandfather rights to continue to be a service provider but the new regulations "knocking him out" are in there, and he has trouble with them. He said it needs to be added that for a property owner to switch to another service provider, he needs to meet some requirements to not owe a service provider monthly, has to have his tank emptied, and he needs to be in compliance with the DEQ.

Rep. Heather Scott testified in opposition to **Docket No. 58-0103-1501** because it affects her district's citizens directly. She explained the rule adds requirements to service providers, costs to citizens, and, with new installation and training, it will require more paper and licensing which generates extra money going to licensing fees and growing the government. She stated she represents districts with home septic systems with lots of water, and **Docket No. 58-0103-1501** will have a negative effect on her district.

MOTION: **Rep. Anderst** made a motion to approve **Docket No. 58-0103-1501**. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 2:56 p.m.

Representative Raybould
Chair

Lorrie Byerly
Secretary